

Serial No. 10/783,401

PATENT

REMARKS

In the Office Action of dated November 9, 2007 claims 11 to 14 are pending of which claims 11 to 14 were rejected.

In particular;

- Claims 11 to 13 are rejected under 35 USC 102(b) as being anticipated by Leonhardt (WO 99/43378)
- Claim 14 is rejected under 35 USC 103(a) as being unpatentable over Leonhardt (WO 99/43378) in view of Marcade (US Patent 5,676696).

Claim Amendments

No claim amendments are made in this response.

Discussion

Before discussing the references cited by the Examiner it will be useful to discuss the use of the terms proximal and distal. Some physicians use these terms in relation to their own position, hence proximal means close to them and distal means distant from them. Other physicians and the case presently under examination use the terms proximal and distal in relation to blood flow in the body from the heart. That is, proximal means nearer to the heart and distal means more distant from the heart. Although no specific discussion is provided in the present application to explain the positional reference base used for this application it is apparent, when reviewing the drawings, that the latter definition is intended. It appears that neither of the references cited in the present Office Action give the positional reference base upon which they are written but it is apparent that both of them are written using the former definition, that is, proximal means closer to the operator and distal means distant from the operator. This difference in positional reference base should be kept in mind when reading the references.

In particular the newly cited reference Leonhardt (WO 99/43378) clearly states, for instance at page 12 line 15 that moving the sheath 62 proximally

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releases the anchoring stent. In this case proximally means towards the operator.

Claim 11

Claim 11 of the present application defines a delivery system for endovascular devices. The claim particularly defines a first expandable device contained within a first sheath and a second expandable device retained within a second sheath. The two expandable devices are separate components and it is particularly defined in claim 11 that the second sheath is distal of the first expandable device. It is further claimed that the second sheath is movable within the first sheath. It is apparent that the outer of the sheaths and its contained first expandable device is further away from the operator than the second expandable device retained within the second sheath.

In contra-distinction, the newly cited reference Leonhardt (WO 99/43378) clearly illustrates and teaches that the inner device and sheath is more distant from the operator. There is no teaching or suggestion that there can be any other configuration for these items in Leonhardt.

It is further noted that the constructional feature in Claim 11;

“a first pusher associated with the first expandable device  
extending thereto within the first and second sheathes ...”

is not present in the reference Leonhardt as the item “pusher tube 88” does not extend through the “second sheath 84”.

For these reasons we submit that the present invention as claimed in Claim 11 is structurally different than the structure of Leonhardt. We further submit that the present invention as claimed in Claim 11 is not anticipated by the reference Leonhardt (WO 99/43378).

Claim 12

Claim 12 depends from Claim 11 and, as discussed above, as Claim 11 is not anticipated by the reference Leonhardt (WO 99/43378) then this claim is also not anticipated by the reference Leonhardt (WO 99/43378).

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Claim 13

Claim 13 depends from Claim 11 through Claim 12 and, as discussed above, as Claim 11 is not anticipated by the reference Leonhardt (WO 99/43378) then this claim is also not anticipated by the reference Leonhardt (WO 99/43378).

Claim 14

The objection of patentability to claim 14 as being unpatentable over Leonhardt (WO 99/43378) in view of Marcade (US Patent 5,676696) is, we submit, rendered moot because Claim 14 depends from patentable Claim 11 as we have submitted above.

The reexamination and reconsideration of this application is respectfully requested and it is further requested that this application be passed to issue.

Although the foregoing discussion is believed to be dispositive of the issues in this case, applicants' attorney requests a telephone interview with the Examiner to further discuss any unresolved issues remaining after the Examiner's consideration of this amendment.

Respectfully submitted,

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